

**REMARKS**

Reconsideration of this application, as presently amended, is respectfully requested.

Claims 7-9 are pending in this application. Claims 7-9 stand rejected.

**Claim Rejection – 35 U.S.C. §103**

In the final Office Action, claims 7-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over applicants' admitted prior art Figs. 1-3 (APA, previously cited) in view of **Willner** (USP 5,790,103, previously cited). Applicant respectfully submits that the present claims patentably distinguish over the the previously cited prior art.

First, in the continuation sheet attached to the Advisory Action mailed October 13, 2006, the Examiner responds to the patentability arguments set forth in the Response Under 37 C.F.R. §1.116 filed on September 21, 2006, asserting

“Applicant says that Willner does not [teach] ENTER/SPACE key set operated by the left and right thumbs, an extreme right delete key in an uppermost key array, and an extreme right BACKSPACE key in a middle key array. However, Willner does teach ENTER/SPACE (166/230 in Fig. 1b) key set operated by the left and right thumbs, (See Figure 1b and Column 5, line 40-Col. 9, line 16) and an extreme right DELTE key in an uppermost key array, and an extreme right BACKSPACE key in a middle key array can be done by remapping and rearranging the keys.”

Although, as noted above, the Examiner asserts “*Willner does teach ENTER/SPACE (166/230 in Fig. 1b) key set operated by the left and right thumbs, (See Figure 1b and Column 5, line 40-Col. 9, line 16)*”, the description in col. 5, line 40 - col. 9, line 16 of **Willner** for

explaining Fig. 1b do not disclose or suggest the ENTER/SPACE (166/230 in Fig. 1b) key set is operated by the left and right thumbs.

Fig. 1B shows only the left half of the keyboard system 100 as shown in Fig. 1A. The right half thereof is shown in Fig. 1C. Thus, the Examiner's assertion above may be caused by overlooking Figs. 1A and 1C.

In the left half (Fig. 1B) the triangular-shaped markings 142, 144, 146, 148 and 164 on control keys 122, 124, 126, 128 and 162, respectively, are the home positions for the five left-hand fingers of the user, as described in col. 6, lines 3-6. **Thus, the left thumb is positioned as its home on the CAPS SHIFT key 162 with the triangular-shaped marking 164, and never on the ENTER key 166 as its home.**

The set of character keys 222, 224, 226, 228 and 230 with the triangular-shaped markings 252, 254, 256, 258 and 260, respectively, are home keys of a user's right hand fingers, as described in col. 6, lines 33-36. The right thumb of the user is positioned on the space key 230.

In this manner, the left thumb's home key (CAPS SHIFT key) 162 is far upwardly staggered from the right thumb's home key (SPACE key) 230, and is not horizontally juxtaposed therewith.

Further, in the keyboard of the present invention, the DELETE key is positioned in the extreme right of the uppermost numerical/symbol character key array and the BACKSPACE key is in the extreme right of the middle character key array, respectively, without remapping and rearrangement for an ideal standard keyboard.

Accordingly, it is respectfully submitted that the presently claimed invention patentably distinguishes over the combination of **APA** and **Willner** for at least the above reasons.

Furthermore, applicants respectfully request that the Examiner address the patentability arguments set forth below, which patentability arguments were submitted with the Response under 37 C.F.R. 1.116 filed on September 21, 2006 and have not been addressed.

In the *Response to Arguments* set forth in the last paragraph of Item 3 and in Item 4 of the final Office Action mailed June 27, 2006, the Examiner asserted:

The difference between the prior arts figures 1-3 and the instant inventions is rearranging some keys to provide better use of frequently used keys such as ENTER/RETURN key, the SPACE key, next to each other and both can be used with thumb.

It would be **design choice** to arrange the keyboard and provide the keyboard in different design. Also, since it has been held that rearranging parts of the invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Thus, the Office Action characterizes the difference between the present invention and the prior art as “rearranging some keys to provide better use of frequently used keys....”. This characterization by the Examiner may be correct insofar as the present invention is an improved arrangement (or layout) of a keyboard. However, an improved arrangement of a keyboard (i.e., rearranging keys) is patentable if the new layout is novel (i.e., meets the requirements of §102) and unobvious (i.e., meets the requirements of §103).

The Office Action asserts that the presently claimed invention is obvious under §103, and supports the obviousness rejection by asserting (1) rearranging parts of the invention involves

only routine skill in the art, citing *In re Japikse*, 86 USPQ 70, and (2) it would be **design choice** to arrange the keyboard and provide the keyboard in different design.

Neither of the reasons supporting the §103 rejection is valid. Specifically, as discussed in the previous response, *In re Japikse* is not applicable because (1) *In re Japikse* applies to a situation wherein the **only** difference between the claimed invention and the prior art is a change in position of an element (i.e., a single element), and (2) the change in position would not have modified the operation of the prior art device. See discussion of *In re Japikse* starting at the bottom of page 7 of the previous response.

In this case, the Examiner admits that the change in position applies to more than just a single element, and the Examiner admits that the change in position modifies the operation of the device (i.e., the Examiner states “rearranging some keys to provide ***better use of frequently used keys*** such as ENTER/RETURN key, the SPACE key, next to each other and both can be used with thumb). Specifically, the Examiner admits that the improved layout of keys provides “better use” of the keys. In other words, the change in position of the keys modifies the operation of the device, and therefore *In re Japikse* is not applicable.

Further, it is well established that a *prima facie* case of obviousness cannot be established by asserting that a claimed feature is a design choice. More specifically, it is well established that to establish a *prima facie* case of obviousness, evidenced motivation must be provided indicating why one skilled in the art would be motivated, lead, or suggested to modify an existing reference in view of another reference. In addition, it is ***improper*** to base a rejection on the claimed feature being merely a **design choice**. See *In re Garrett*, 1986 Pat. App. LEXIS 8 (Bd.

Pat. App. 1986), where the U.S. Patent and Trademark Office Board of Patent Appeals and Interferences (“Board”) specifically stated: “the examiner has not presented any line of reasoning as to why the artisan would have been motivated to so modify the...structure, and we know of none. The examiner’s assertion...that the proposed modification would have been “an obvious matter of engineering design choice well within the level of skill of one of ordinary skill in the art” is a conclusion, rather than a reason.” Similar discussions can be seen in *In re Chu*, 36 USPQ2d 1089 (Fed. Cir. 1985).

In this case, the Examiner has provided no line of reasoning as to why one of ordinary skill in the art would have been motivated to modify the references other than to conclude that (1) it is design choice, and (2) rearranging parts involves only routine skill in the art. Each of these reasons is improper for the reasons discussed above.

Accordingly, it is submitted that the Examiner has not established a *prima facie* case of obviousness. Therefore, it is respectfully submitted that the rejection under §103 is improper for all of the additional reason set forth above and should be withdrawn.

***As noted above, the Examiner has not addressed these patentability arguments and is respectfully requested to address these arguments in the next response.***

Application No. 09/926,766  
Art Unit: 2629

Amendment under 37 C.F.R. §1.111  
Attorney Docket No.: 011600

**CONCLUSION**

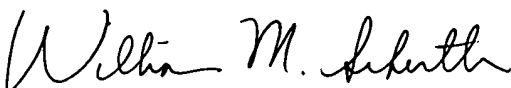
In view of the foregoing amendments and accompanying remarks, it is submitted that all pending claims are in condition for allowance. A prompt and favorable reconsideration of the rejection and an indication of allowability of all pending claims are earnestly solicited.

If the Examiner believes that there are issues remaining to be resolved in this application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite and complete prosecution of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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